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INFORM CONSULS

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SUBJECT: WAYS AND MEANS COMMITTEE PASSES TAX BILL ON
FOREIGN EARNED INCOME

REF: STATE 193625

HOUSE WAYS AND MEANS COMMITTEE, ON AUGUST 2, PASSED BILL
WHICH COMPLETELY REVISES RULES FOR TAXATION OF INCOME
EARNED ABROAD BY U.S. CITIZENS AND RESIDENTS. THE ENTIRE
HOUSE EXPECTED TO ACT FAVORABLY ON BILL IN VERY NEAR
FUTURE. HOUSE VERSION WILL THEN HAVE TO BE RECONCILED
WITH VERY DIFFERENT VERSION PASSED BY THE SENATE
EARLIER THISYEAR. IT IS IMPOSSIBLE TO PREDICT HOW
HOUSE/SENATE CONFERENCE COMMITTEE WILL RECONCILE DIFFERENCES.
SUMMARY OF THE HOUSE BILL IS GIVEN BELOW. SECTIONS
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4 AND 6 OF THE BILL APPLY TO U.S. GOVERNMENT EMPLOYEES
AS WELL AS TO OTHER AMERICANS EMPLOYED OVERSEAS.

SECTION-BY-SECTION EXPLANATION

SECTION 1 OF THE BILL

SHORT TITLE. -- QTE FOREIGN EARNED INCOME ACT OF 1978 UNQTE.

SECTION 2 OF THE BILL

FLAT EXCLUSION. -- THE EARNED INCOME EXCLUSION UNDER SECTION 911 WOULD BE RETAINED, BUT ONLY FOR FOREIGN COUNTRIES OTHER THAN CANADA AND THOSE IN WESTERN EUROPE. THE DOLLAR LIMITATIONS WOULD BE RESTORED TO THEIR LEVELS PRIOR TO THE ENACTMENT OF THE 1976 ACT (I.E., 20,000 DOLLARS ANNUALLY IN GENERAL AND 25,000 DOLLARS ANNUALLY FOR PERSONS WHO ARE BONA FIDE FOREIGN RESIDENTS FOR THREE YEARS OR MORE). PRESENCE ON OIL EXPLORATION AND EXTRACTION EQUIPMENT ON THE NORTH SEA WOULD BE TREATED AS PRESENCE OUTSIDE WESTERN EUROPE. CHANGES MADE BY THE 1976 ACT IN THE METHOD OF CALCULATING THE EXCLUSION WOULD BE REPEALED.

SECTION 3 OF THE BILL

FOREIGN LIVING COST DEDUCTIONS. -- ANY TAXPAYER WHOSE TAX HOME IS IN A FOREIGN COUNTRY WOULD RECEIVE CERTAIN DEDUCTIONS, WHETHER OR NOT THE INDIVIDUAL ALSO QUALIFIED FOR THE EXCLUSION UNDER SECTION 911. THESE DEDUCTIONS, PROVIDED UNDER A NEW SECTION 913 OF THE CODE, ARE THE FOLLOWING:

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(A) COST-OF-LIVING. -- AN AMOUNT PRESCRIBED BY THE IRS ESTABLISHING THE AMOUNT (IF ANY) BY WHICH THE DAILY LIVING EXPENSES IN THE FOREIGN PLACE WHERE THE TAXPAYER IS LOCATED EXCEED THOSE COSTS IN NEW YORK CITY. THE COST COMPARISON WOULD BE BASED ON SPENDABLE INCOME. STATE DEPARTMENT COST-OF-LIVING TABLES (WHICH USE THIS METHOD OF COMPUTATION) COULD BE TAKEN INTO ACCOUNT BY IRS.

(B) HOUSING. -- AN AMOUNT EQUAL TO THE EXCESS OF THE REASONABLE COST OF HOUSING (INCLUDING UTILITIES AND INSURANCE) OVER THE BASE HOUSING AMOUNT. THE BASE HOUSING AMOUNT WOULD EQUAL ONE-SIXTH OF THE TAXPAYER'S QTE BASE COMPENSATION UNQTE IN ANY QUALIFIED PENSION PLAN IN WHICH HE PARTICIPATES (OR COULD PARTICIPATE BUT FOR AGE OR SERVICE REQUIREMENTS). IF AN EMPLOYEE HAS NO BASE COMPENSATION (E.G., BECAUSE HIS EMPLOYER HAS NO PENSION PLAN), THE BASE HOUSING AMOUNT WOULD BE ONE-ELEVENTH OF AN AMOUNT EQUAL TO THE TAXPAYER'S EARNED INCOME MINUS HIS DEDUCTIONS FOR EXCESS LIVING COSTS ABROAD.

THE BILL PROVIDES AN EXCEPTION UNDER WHICH THE TAXPAYER

MAY DEDUCT THE FULL COST OF HOUSING AT HIS TAX HOME IF HE MUST MAINTAIN A SEPARATE HOUSEHOLD FOR HIS SPOUSE AND DEPENDENTS AWAY FROM HIS TAX HOME BECAUSE OF ADVERSE LIVING

CONDITIONS OR FOR THE CONVENIENCE OF HIS EMPLOYER.

(C) EDUCATIONAL EXPENSES. -- THE REASONABLE COST OF EDUCATION FROM KINDERGARTEN THROUGH GRADE 12 FOR DEPENDENTS. THE COST OF NON-LOCAL COACH TRANSPORTATION AND ROOM AND BOARD ARE DEDUCTIBLE IF THERE IS NO ADEQUATE UNITED STATES-TYPE SCHOOL WITHIN A REASONABLE COMMUTING DISTANCE.

(D) HOME LEAVE. -- THE COST OF ONE ROUND-TRIP COACH FARE
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EVERY YEAR FOR THE TAXPAYER AND HIS FAMILY FROM HIS TAX HOME TO ANY PLACE IN THE UNITED STATES.

SECTION 4 OF THE BILL

MOVING EXPENSES. -- IN THE CASE OF MOVES TO FOREIGN WORK LOCATIONS, THE BILL WOULD INCREASE THE PERIOD DURING WHICH THE COST OF TEMPORARY LIVING ARRANGEMENTS ARE ALLOWED AS DEDUCTIBLE MOVING EXPENSES (UNDER SECTION 217) FROM 30 DAYS TO 90 DAYS, AND RAISE THE CEILING ON THOSE TEMPORARY LIVING COSTS FROM 1,500 DOLLARS TO 4,500 DOLLARS. MOVING EXPENSES WILL INCLUDE THE COST OF STORING GOODS WHILE ABROAD. THE MOVING EXPENSE DEDUCTION IS ALSO EXPANDED TO PERMIT (I) BONA FIDE RETIREES RETURNING TO THE U.S. AFTER WORKING ABROAD, AND (II) THE SURVIVORS OF AMERICANS WHO DIE WHILE WORKING OVERSEAS TO DEDUCT THE COST OF MOVING BACK TO THE U.S., SUBJECT TO THE REGULAR LIMITATIONS.

SECTION 5 OF THE BILL

MEALS AND LODGING FURNISHED BY THE EMPLOYER. -- THE BILL WOULD EXPAND THE SCOPE OF THE EXCLUSION (UNDER SECTION 119) FOR MEALS AND LODGING PROVIDED BY THE EMPLOYER IN BOTH FOREIGN AND DOMESTIC SITUATIONS. THE EXCLUSION WOULD EXTEND TO MEALS AND LODGING PROVIDED IN KIND BY A THIRD PARTY ON BEHALF OF THE EMPLOYER, AND WOULD COVER THE TAXPAYER'S SPOUSE AND DEPENDENTS AS WELL.

ALSO, EMPLOYEES ABROAD COULD EXCLUDE THE VALUE OF QTE CAMP STYLE UNQTE MEALS AND LODGING EVEN IF THE GENERAL REQUIREMENTS OF SECTION 119 ARE NOT MET. LODGING IS CAMP-STYLE IF EITHER (1) TWO OR MORE UNRELATED EMPLOYEES
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ARE REQUIRED BY THEIR EMPLOYER TO SHARE THE SAME LIVING QUARTERS; OR (2) THE LODGING IS FURNISHED IN A COMMON AREA (NOT AVAILABLE TO THE PUBLIC) WHICH NORMALLY ACCOMMODATES TEN OR MORE EMPLOYEES. LODGING OUTSIDE CANADA AND WESTERN EUROPE IS ALSO CAMP-STYLE IF: (1) IT IS ASSIGNED ON THE BASIS OF FAMILY SIZE OR OTHER NON-INCOME,

NON-JOB DESCRIPTION BASES; (2) THE EMPLOYER ASSIGNS HOUSING TO 100 OR MORE EMPLOYEES WHO ARE U.S. CITIZENS OR RESIDENTS IN THE IMMEDIATE GEOGRAPHIC AREA; AND (3) THE EMPLOYEES LIVE IN HOUSING OCCUPIED SOLELY BY EMPLOYEES OF THE EMPLOYER AND THEIR FAMILIES.

MEALS ARE QTE CAMP-STYLE UNQTE IF THE EMPLOYEE LIVES IN A CAMP AND THE MEALS ARE FURNISHED IN A COMMON EATING AREA WHICH NORMALLY SERVES TEN OR MORE EMPLOYEES AND IS NOT AVAILABLE TO THE PUBLIC.

SECTION 6 OF THE BILL

SALE OR EXCHANGE OF RESIDENCE. -- THE BILL WOULD ALSO SUSPEND THE RUNNING OF THE 18- OR 24-MONTH PERIOD FOR REINVESTMENT OF PROCEEDS REALIZED ON THE SALE OF A PRINCIPAL RESIDENCE FOR UP TO FOUR YEARS WHILE THE TAXPAYER IS WORKING ABROAD.

SECTION 7 OF THE BILL

INFORMATION REPORTING FOR TAX EXEMPT ALLOWANCES PAID TO GOVERNMENT EMPLOYEES. -- UNDER PRESENT LAW (SECTION 912), AN EXCLUSION FROM GROSS INCOME IS PROVIDED FOR CERTAIN STATUTORY ALLOWANCES PAID TO CIVILIAN EMPLOYEES OF THE U.S. GOVERNMENT TO COMPENSATE THEM FOR THE EXCESS COSTS OF WORKING IN FOREIGN COUNTRIES AND, IN CERTAIN INSTANCES, IN HAWAII AND ALASKA AND IN THE TERRITORIES AND POSSESSIONS OF THE UNITED STATES. UNDER PRESENT LAW,
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GOVERNMENT EMPLOYEES ARE NOT REQUIRED TO FILE INFORMATION RETURNS DISCLOSING THE TYPE AND AMOUNT OF THESE ALLOWANCES WHICH THEY RECEIVE.

THE BILL WOULD AUTHORIZE THE TREASURY TO REQUIRE BY REGULATIONS THAT CIVILIAN EMPLOYEES OF THE U.S. GOVERNMENT PROVIDE INFORMATION ON THEIR RETURNS DISCLOSING THE

AMOUNT AND TYPE OF ANY ALLOWANCES THEY RECEIVE WHICH ARE EXCLUDED FROM GROSS INCOME UNDER SECTION 912.

SECTION 8 OF THE BILL

REPORTS BY THE SECRETARY. -- THE BILL REQUIRES THAT, AS SOON AS POSSIBLE AFTER THE CLOSE OF 1979 AND AFTER THE CLOSE OF EVERY SECOND YEAR THEREAFTER, THE TREASURY SUBMIT A REPORT TO THE TAXWRITING COMMITTEES SETTING FORTH THE NUMBER OF, AND THE COUNTRIES OF RESIDENCE OF, PERSONS BENEFITING FROM THE PROVISIONS DEALING WITH THE TAXATION OF AMERICANS WORKING ABROAD (SECTIONS 911, 912, AND 913) AND THE REVENUE COST AND THE ECONOMIC EFFECTS OF THOSE

PROVISIONS.

SECTION 9 OF THE BILL

EFFECTIVE DATE. -- THE AMENDMENTS MADE BY THE BILL WOULD GENERALLY BE EFFECTIVE FOR TAXABLE YEARS BEGINNING AFTER 1977. VANCE

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